

## UTILITIES DIVISION[199]

### Adopted and Filed

#### Rule making related to approval of utility system appraisers

The Utilities Board hereby amends Chapter 32, “Reorganization,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 388 and section 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 388.

#### *Purpose and Summary*

Iowa Code section 388.2A(2)“a”(1) requires a city or governing body of a city to obtain two appraisals when the city is proposing to sell a city-owned utility. One appraiser is to be selected by the city, and the other appraiser is to be an independent appraiser approved by the Utilities Board. The adopted new rule establishes the procedure for a city or city governing body to request that the Utilities Board approve an appraiser.

The Board issued an order adopting a new rule on April 30, 2019. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2018-0032.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 27, 2019, as **ARC 4315C**. An oral presentation was held on April 2, 2019, at 8:30 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The participants at the oral presentation supported the proposed changes to rule 199—32.10(388) that were included in joint written comments received by the Board. In response to Board questions, the participants discussed proposed legislative changes, who pays for the appraisers, and whether the payments could be recouped from the purchaser.

The Utilities Board made revisions to proposed new rule 199—32.10(388) as suggested in the joint comments.

#### *Adoption of Rule Making*

This rule making was adopted by the Utilities Board on April 30, 2019.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on June 26, 2019.

The following rule-making action is adopted:

Adopt the following new rule 199—32.10(388):

**199—32.10(388) Approval of appraiser for municipal utilities.** Pursuant to Iowa Code section 388.2A(2) “a”(1), in order to dispose of a city utility by sale, the governing body of a city utility shall determine the fair market value of the utility system that is being considered for sale after obtaining two appraisals from independent appraisers, one of which is to be obtained from an independent appraiser approved by the board. The appraisals must be conducted in conformance with the uniform standards of professional appraisal practice or substantially similar standards. The procedures for requesting board approval of an appraiser are as follows:

**32.10(1) Making a request.** To request board approval of an appraiser to appraise a city utility, the governing body of the city utility shall file a request in the board's electronic filing system. The request shall contain the following information:

- a. The name of the city and of the utility;
- b. The type of utility service provided by the utility;
- c. The total number of customers served by the utility and the number of customers served by class, if applicable;
- d. A general description of the assets owned by the utility, including any equipment, buildings, or other facilities used in providing the utility service; and
- e. The name and contact information for the city or utility.

**32.10(2) Consideration of request.** When a request for approval of an appraiser is received by the board, board staff shall review the request and provide the board with a recommendation or a list of appraisers for the board to consider approving. The board may delegate approval authority to the board chair.

**32.10(3) Notice of approved appraiser.** Within 30 calendar days following the city's or city utility's filing to request board approval of an appraiser, the board shall notify the city and governing body of the city utility of an approved appraiser. If the city and governing body of the city utility are unable to agree to terms with an approved appraiser, the city and governing body of the city utility may file a letter with the board requesting approval of another appraiser. In support of the request for another appraiser, the city and governing body of the city utility shall identify the reasons why they are requesting the board to approve another appraiser.

This rule is intended to implement Iowa Code section 388.2A(2) “a”(1).

[Filed 4/30/19, effective 6/26/19]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/22/19.